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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,266	12/06/2001	Krishnamachari Gopalan	85939.000235	5634
23387	7590	07/26/2005	EXAMINER	
Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			PATTERSON, MARC A	
		ART UNIT		PAPER NUMBER
				1772

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	10/010,266	
Examiner	GOPALAN, KRISHNAMACHARI	
Marc A. Patterson	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 09 May 2005.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 63-97 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 63-97 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

**DETAILED ACTION**

**WITHDRAWN REJECTIONS**

1. The 35 U.S.C. 102(b) rejection of Claims 74, 80 – 81, 86 and 92 – 93 as being anticipated by King (U.S. Patent No. 5,622,008), of record on page 2 of the previous Action, is withdrawn.
  
2. The 35 U.S.C. 103(a) rejection of Claims 63 – 73, 75 – 79, 82 – 85, 87 – 91 and 94 – 97 as being unpatentable over King (U.S. Patent No. 5,622,008) in view of Drake et al (U.S. Patent No. 5,521,248), of record on page 3 of the previous Action, is withdrawn.

**NEW REJECTIONS**

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 63, 69 – 70, 72, 74 – 75, 80 – 82, 84, 86 – 87, 92 – 94 and 96 are rejected under 35 U.S.C. 102(b) as being anticipated by Fabris et al (U.S. Patent No. 4,676,995).

With regard to Claims 63, 69 – 70, 74 – 75, 80 – 82, 86 – 87 and 92 – 94, Fabris et al disclose an automotive weatherseal (weatherstrip; column 1, line 10) comprising two layers comprising EPDM that are coextruded (two compounds of EPDM, therefore a rubber and elastomer, one which is shaped into U and one which is rounded; column 2, lines 1 – 5); one of the layers is in direct contact with, and therefore on, a metal reinforcement (containing a metal

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reinforcing sheet; column 2, lines 1 – 5) and the other layer is in direct contact with, and therefore on, the first layer, as shown in Figure 1; the layer that is on the metal reinforcement is therefore a bonding veneer because it bonds the metal to the other layer; the weatherstrip is cured after leaving the extruder (column 2, lines 7 – 12) and Fabris et al therefore disclose a weatherseal in which the layers are uncured and curable and therefore crosslinkable; Fabris discloses curing agents comprising sulfur curing agents and peroxide curing agents (column 4, lines 1 – 8) and therefore discloses that both layers are uncured curable layers comprising sulfur and peroxide curing agents, which are therefore sulfur and peroxide curable; the layers also comprise a polybutadiene (column 3, lines 64 – 65).

With regard to Claims 72, 84 and 96, the layer disclosed by Fabris et al that contacts the metal reinforcement also encapsulates the metal reinforcement (containing the metal reinforcement; column 2, lines 4 – 6).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 64 – 68, 71, 73, 76 – 79, 83, 85, 88 – 91, 95 and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fabris et al (U.S. Patent No. 4,676,995) in view of Drake et al U.S. Patent No. 5,521,248).

Fabris et al disclose a multilayer structure comprising a peroxide curable and sulfur curable rubber layer comprising EPDM bonded to metal as discussed above. With regard to Claims 64 – 68, 71, 73, 76 – 79, 83, 85, 88 – 91, 95 and 97, Fabris et al fail to disclose a peroxide curable layer comprising maleinated polybutadiene and methacrylate and encapsulating the sulfur curable layer and a metal reinforcement comprising aluminum and an insulating filler to reduce galvanic corrosion.

Drake et al teach a peroxide curable layer (column 2, lines 45 – 58) comprising maleinated polybutadiene (column 8, lines 66 – 67 and methacrylate (column 4, line 17) and encapsulating a sulfur curable layer (the layer is flowable over the substrates, and therefore encapsulates the substrates; column 6, lines 45 – 47) and a metal reinforcement comprising aluminum (column 7, lines 7 – 18) and an insulating filler to reduce galvanic corrosion (carbon black; column 5, lines 35 – 37) in the making of a multilayer structure comprising a peroxide curable rubber layer comprising EPDM (column 6, lines 63 – 66) for the purpose of obtaining a multilayer structure having good tensile strength (column 2, lines 19 – 25). Therefore, one of ordinary skill in the art would have recognized the advantage of providing for the peroxide curable layer comprising maleinated polybutadiene and methacrylate and encapsulating a sulfur curable layer and a metal reinforcement comprising aluminum of Drake et al in Fabris et al, which is a multilayer structure comprising a peroxide curable layer, depending on the desired tensile strength of the end product

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a peroxide curable layer comprising maleinated polybutadiene and methacrylate and encapsulating a sulfur curable layer and a metal

reinforcement comprising aluminum in Fabris et al in order to obtain a multilayer structure having good tensile strength as taught by Drake et al.

#### ANSWERS TO APPLICANT'S ARGUMENTS

7. Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 74, 80 – 81, 86 and 92 – 93 as being anticipated by King (U.S. Patent No. 5,622,008) and 35 U.S.C. 103(a) rejection of Claims 63 – 73, 75 – 79, 82 – 85, 87 – 91 and 94 – 97 as being anticipated by King (U.S. Patent No. 5,622,008) in view of Drake et al (U.S. Patent No. 5,521,248), of record in the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn. The new 35 U.S.C. 102(b) of Claims 63, 69 – 70, 72, 74 – 75, 80 – 82, 84, 86 – 87, 92 – 94 and 96 as being anticipated by Fabris et al (U.S. Patent No. 4,676,995) and 35 U.S.C. 103(a) rejection of Claims 64 – 68, 71, 73, 76 – 79, 83, 85, 88 – 91, 95 and 97 as being unpatentable over Fabris et al (U.S. Patent No. 4,676,995) in view of Drake et al U.S. Patent No. 5,521,248) above is directed to amended Claims 63 – 97.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 7/25/05*

Marc A. Patterson, PhD.

Examiner

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